

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, August 22, 2016

Those Present:

Mr. Rick Stup, Board Chairman
Mr. Jesse Pippy, Board Member
Mrs. Maggi Hays, Board Member
Mrs. Linda Thall, Senior Assistant County Attorney
Mr. Harold DeLauter, Alcoholic Bev. Inspector
Mrs. Maggi Hays, Board Member
Mr. Rick Stup, Board Chairman
Mr. Bob Shrum, Alcoholic Bev. Inspector
Mrs. Ashley Sklarew, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:08 AM by Chairman Rick Stup.

- 1. Public Forum** - Mr. Pippy announced to the public that a public forum will take place on Monday, August 29, 2016 at 10:00 am. The purpose of the forum is to discuss pre legislative session concerns regarding the Board's Regulations and current liquor laws. The forum is open to the public and all licensees in Frederick County.
- 2. Board Briefing-** Mr. Stup stated that Mrs. Thall will be briefing the Board Members and the public is welcome to stay. The briefing is about conducting Administrative Hearings.
- 3. Update from August 8, 2016 Public Meeting-** Mr. Stup stated the Board found out that the Middletown District has 2 Beer, Wine and Liquor licenses that are available. It has no bearing on the rating list on who may submit applications. The first two Applicants for that District will be contacted to come to talk to the Board about their applications. Mr. Stup stated he wanted to inform the public about the finding.
- 4. Carryover from the last Public Meeting Ballenger District allocation-** Mr. Stup stated that the Board postponed rating the priority list of who may apply for this District's available applications. After hearing testimony there were 2 requests that had history with prior license, and the Board found there was a 3rd Applicant that had prior license history. There is no public testimony on this. The Board will give the Applicants a chance to respond to the violations

that are listed. Mr. Stup stated the Board will go through all Districts to come with a tentative rating for the Districts.

- 5. Ballenger Creek Former Dry District-** There is a Class A, 1. Beer license available, no request, 1. Beer and Wine License available, no request, 1. Beer, Wine and Liquor License available, there are 6 Requests. Class B in that District 1 Beer License available, no request, 1 Beer and Wine License, no request. Mr. Stup stated the first 2 cases listed James Doll, Rand and Susan Lewis Case there is no change. Roger Miller Case, Edward Scott Case violation listed, and there was discussion and rebuttal on that case however the 2nd person that will be on the license Mrs. Taloose holds a license in Washington County, and in 2012 and 2015 the applicant had a violation for Sales to Minors. Mr. Stup asked if the Applicant would like to respond to the findings.

Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). The applicant distributed a handout to the Board titled Ballenger Creek Plaza. The applicant stated that Mrs. Taloose is his partner and not Mr. Taloose. The applicant stated he cannot speak on the violations of his past partner. Ms. Marilyn Ward stated that she will be retiring from the State of Maryland, and will be involved with the establishment as much as she can. Mrs. Taloose stated she wants to establish responsible drinking policies. Mr. Stup asked if Mrs. Taloose had any involvement with the Backus Fine Wine. Mrs. Taloose stated that her husband was the owner of that store and has paid the fines for the listed violations. Mrs. Taloose stated that it would be her and Mr. Scott on the license only. Mr. Scott stated that his son would be actively involved with the store. Mr. Stup asked if the Board had any comments.

Mr. Stup stated that there was indication that Mrs. Patel would be a part of the establishment and that Mrs. Patel was involved with Village Mart and Westview Liquors. Westview Liquors had a license issued February 2009 and no violation history. Village Mart had a license issue in January 2008. In September 2014 Westview Liquors received a violation for Sales to a Minor. Mr. Stup asked if anyone wanted to comment on the violation. Mrs. Thall swore in Applicants, witness and anyone who wanted to testify (see sign in sheet). Ms. Patel stated the violation occurred with one of the staff employees, but since then the establishment has not received any violations. Mr. Stup asked Ms. Patel if she was involved with the business. Ms. Patel stated that she helped every once in a while. Mr. Stup asked if any of Ms. Patel family would be on the license. Ms. Patel stated she would be the only one on the license. Mr. Stup asked Ms. Patel if she will be the sole owner of the establishment. Ms. Patel stated she would be the primary person on the LLC. Mr. Stup asked the Board members if they had any questions for the Applicant. The Board had no questions.

Mr. Stup stated the final application was from William Laughlin. Mr. Stup stated the Board found that in testimony the group seeking the license has involvement with Franklin Liquors, Walkersville Wine and Spirits and Spirits of Liberty. Mr. Stup stated Spirit of Liberty was licensed October 2014 with no

violation history, Walkersville Wine and Spirits licensed September 2015 with no violation history. Franklin Liquors was licensed February 2007 with 2 violations. 1 in November 2012 no Alcohol Awareness person present at the store and May 2011 no Regulation Booklet on the premises. Mr. Stup asked if there was a representative who would like to respond to the violations. Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). Mr. William Laughlin stated that he was here to represent Manis Desai. Mr. Laughlin stated he has no license on the violations and that he would be the Licensee for the Ballenger Creek District application. He and Mr. Desai belong to the same Rotary Club. Mr. Laughlin stated that Mr. Desai is very involved within the community that he has contributed to community events with donations. Mr. Laughlin stated that he has known Mr. Desai for 6 years and he is an honest upstanding citizen. Mr. Laughlin stated that he did not know anything about the violations. Mr. Pippy asked what involvement Mr. Desai would have in the proposed business and he asked why Mr. Desai was not present for today's hearing. Mr. Laughlin stated that he was on a flight and he had just arrived into town and was in route to the meeting. Mr. Stup asked the Board Members, Ms. Thall and the Liquor Inspectors if they wanted to make comments, all stated no comments.

6. Application Rating by the Board Members

James Doll- Mr. Stup 2, Mrs. Hays 2, Mr. Pippy 2

Randy Lewis- Mr. Stup 1, Mrs. Hays 1, Mr. Pippy 1

Roger Miller-Mr. Stup 6, Mr. Pippy 6, Mrs. Hays 6

Ed Scott- Mr. Stup 4, Mrs. Hays 5, Mr. Pippy 5

Mrs. Patel – Mr. Stup 3, Mrs. Hays 3, Mr. Pippy 3

Mr. Laughlin- Mr. Stup 5, Mrs. Hays 4, Mr. Pippy 4

Mr. Pippy stated the order does not determine if an applicant will get a license it just determines which order the applicants can submit their application. Mr. Stup stated the number of license are subject to change. Mr. Stup stated the priority listing for the Ballenger District in the following order:

1. Randy Lewis
2. James Doll
3. Ms. Patel
4. Mr. Laughlin

5. Ed Scott
6. Roger Miller

Motion: Mr. Pippy to approve the order priority list

Seconded: Mrs. Maggi Hays

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

7. **Pending Violations**-Mrs. Sklarew stated there are 4 pending violations pending that are in the draft phase that are will be given to the Senior Assistant County Attorney this week for review and hopefully be scheduled for October.

8. Decision Required-New License

Bonchon Frederick
Bin Bin Zhang, Zhou Hang and Maria Acker
For the Use of Taste of Soul Inc.
t/a Bonchon Frederick County Government
211 D Shorebird Street
Fredrick, MD 21701
Class B on Sale Beer, Wine and Liquor

Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). Mrs. Thall stated pending items are Fire Marshal, Inspector's report, Workers Compensation, Alcohol Awareness and Fingerprinting & Background Check. Attorney Linda Carter represented the applicants, Taste of Soul, and presented the Board with a summary of the restaurant. Ms. Carter stated that one of the Licensees has a license in Prince George County for a Bon Chon Chicken that was issued February 2016, with no violations. Ms. Carter stated that all 3 Licensees have been Alcohol Awareness Certified and they intend to have the staff of the restaurant Alcohol Awareness Certified. There is outside seating but alcohol will not be served outdoors. Mr. Stup asked how many employees will be working at the establishment. Mr. Stup stated that he did not receive an application for entertainment. Ms. Carter stated that there is piped in music and 5 televisions. Mr. Stup stated that the applicant needs to file an application for entertainment. Mr. Pippy asked for the address of Ben Ben Zhang, because the establishment was listed as his home address. Mr. Chang

verified his correct address as 8037 Water view Court, Frederick MD 21701. Mr. Pippy asked how many restaurant locations the licensee owned. Ms. Change state they owned 2 restaurants. Mrs. Thall asked about the other pending items. Ms. Carter stated the operational permits have been issued and she will provide the Board with copies of the permits. Ms. Thall asked the Inspector if he had any questions or concerns. Inspector Shrum stated inspected the restaurant on August 3, 2016 at 11:00 am and the establishment met all requirements. Inspector Shrum asked the Licensee is applying for a permit for outdoor seating. Ms. Carter stated there will no alcohol beverage service outside.

MOTION: Mr. Pippy made a motion to conditionally approve the application pending modification of the applicant's home address, subject to pending items and that the Prince George's County location violations be checked. Applicant will make application for entertainment permit. Until September 26, 2016

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTON:

There was no further discussion on the motion.

VOTE: Mrs. Hays-Aye
Mr. Stup-Aye
Mr. Pippy-Nays

The vote was unanimous **Aye-3, Nays-**
(Motion Passed)

9. Decision Required: Transfer

Guido's Speakeasy
Melissa Demory
For the Use of the Demory Companies LLC
t/a Guido's Speakeasy
543 N. Market Street
Frederick, MD 21701
Class B on Sale Beer, Wine and Liquor

Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). Ms. Thall stated the pending items are the Occupancy Permit, Fire Marshal, Bulk Transfer, Bulk Transfer Act, Inspector's Report, Final Lease, Worker Compensation License and Retail Sales Taxes License with correct address. Melissa Demory stated that she has updated the address for her Sales and Use Tax License; she is just waiting for the updated copy. Ms. Demory stated she is waiting for the Fire Marshal to complete the inspection and she stated that all other pending items have been completed. Mrs. Thall asked inspector Shrum if he had inspected the establishment. Inspector Shrum stated that he inspected the restaurant on August 19, 2016 at 2:50 pm and the applicant

met all requirements of the Liquor Board. Inspector Shrum stated that he has spoken with the Fire Marshal and he told Inspector Shrum that he was waiting on Final Occupancy. The Fire Marshal received the Permit from Frederick City on Friday and he had approved the restaurant. Mr. Stup wanted to know how many employees will be working at the Restaurant. Ms. Demery stated the original staff would remain. Ms. Demery stated that all employees are Alcohol Awareness Certified except for one.

MOTION: Mrs. Hays made motion for conditional approval until September 26, 2016.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mrs. Hays-Aye
Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

10. Decision Required: Transfer

Emmitsburg Valero
Dinesh Patel and Vidhu Sharma
For the Use of Dola LLC
t/a Emmitsburg Valero
16603 S. Seton Avenue
Emmitsburg, MD 21727
Class A on Sale Beer and Light Wine

Emmitsburg Valero- License Exchange, Class A license. Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). Mrs. Thall stated the Applicant's pending items: Zoning, Occupancy Permit, Bulk Transfer Permit, and Inspector's Report. Mrs. Thall asked the applicant to address the pending items. Attorney Ted Elliot representing the Applicant stated the Bulk transfer was sent to Annapolis. The building permit and zoning were received on Friday. Mr. Elliott stated the building inspector would inspect the building today. Ms. Thall asked Inspector DeLauter if he had inspected. Inspector DeLauter stated that on August 10, 2016 at 4:18 pm the applicant met all requirements as set by the Liquor Board.

Public Testimony- Mrs. Thall swore in Jessica Hynerman for public comment. Ms. Hynerman stated she is a Licensee with Pech Ngorn. Ms. Hynerman stated that the applicant had their license pulled by the Liquor Board for failure to notify the Liquor Board of the sale of their establishment. Ms. Hynerman stated that her establishment has a Beer only license in the

district of Emmitsburg. Ms. Hynerman is requesting to apply for the open License that the Valero formerly held and she has a letter from patrons requesting her establishment have wine sales too. Mr. Stup asked since there was a lapse between when the transfer occurred should the Liquor Board deal with this case differently on a competition stand point or legally. Mrs. Thall stated it's a matter of deciding under Article 2B if the applicant meets the requirements or there are sufficient factors under Article 2 B to deny the application of transfer. The Board has to look at all aspects of the license and how it affects the public. Ms. Hynerman asked the Board if it would like to view records she could provide. Ms. Thall stated the documents would be marked as oppositions 1, 2 and 3. Mr. Pippy asked if there was only 1 Class B Beer and Wine License for Emmitsburg. Mr. Pippy asked if there was an unauthorized Bulk Transfer of the licensee. Mr. Pippy asked if there was proper notice given for others to apply for this liquor license. Mr. Elliot stated the ability to use the license by the Licensee was suspended. Mr. Stup asked Mrs. Sklarew if a new license was issued and being held by the Liquor Board for the Valero. Mrs. Sklarew confirmed that a license was issued, but is being held by the Liquor Board but she could not confirm the reason why the Board is holding the License. Inspector DeLauter stated he was instructed to pull the license under the understanding that the business had been sold without notice to the Liquor Board. Mrs. Thall advised the Board to defer from making a decision today until clarification can be made to the Liquor Board. Mr. Pippy asked Inspector DeLauter when picked up the License. He stated it was roughly about 3 months ago that he pulled the Valero License. Mr. Stup asked Mr. Elliot if he had a rebuttal to the Public Comment. Mr. Elliot asked Mr. Stup how Mrs. Hynmerman was made aware there may be an issue with the License. Peck Ngorn states that a customer told her that the Licensee no longer had the license and Licensee called Mrs. Dean to confirm the information. Mr. Elliot asked Mr. Patel if he signed any documentation to transfer the assets to his business. Mr. Patel stated that nothing has been signed to transfer his business. Mr. Stup stated for the record other than a down payment for Contract of Sale nothing has been paid to transfer property. Mr. Stup stated that the Board needs to continue the case until September 12, 2016 to have staff review the file history. Mr. Stup asked the Board for any comments.

MOTION: Mr. Pippy made a motion to continue the case for further details until September 19, 2016.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTON:

There was no further discussion on the motion.

VOTE: Mrs. Hays-Aye
Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

11. Decision Required:

Shamrock Restaurant
Donna, Demmon, Dawn Knox, David Fitzgerald
For the Use of Fitzgerald's Shamrock Restaurant Inc.
Ta/Shamrock Restaurant
7701 Fitzgerald Road
Thurmont, MD 21788
Class B on Sale Beer, Wine and Liquor

Mrs. Thall swore in Applicants, witnesses and anyone who wanted to testify (see sign in sheet). Mrs. Thall stated the pending item needed is the Inspector's Report. Mrs. Thall asked Inspector DeLauter if he had inspected the location. Inspector DeLauter stated he inspected on August 3, 2016 at 6:18 pm. Mr. DeLauter stated that the applicant met all the requirements as set by the Liquor Board. Mrs. Thall asked if the Board asked if the Board had any questions. Mr. Stup asked if they had entertainment. The Licensee stated they have a CD. Mr. Stup asked the Licensee to complete an application for entertainment.

MOTION: Mrs. Hays made motion for approval not including entertainment.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTON:

There was no further discussion on the motion.

VOTE: Mrs. Hays-Aye
Mr. Stup-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

Discussion on Promoter license- Erin Hadger, Kevin Addicts, Tom Bares, Brent Rankin, Will Randle

Tom Barse introduced himself to the Board and stated that he is on the Legislative Committee of the Brewers Association and he is Chairman of the Agriculture Resource Committee. Mr. Barse is a local famer who grows Hops for brewing beer. He is the Owner of Milk House Brewery with his wife. He manufactures ingredients that he grows on his farm. He has been allowed to have tasting and sell beer by the glass from his farm under his State License. Mr. Barse stated he is allowed to have 12 promotional events a year from the state where he has to purchase a license. Mr.

Barse provided the board with copies of the law for beer brewing in the state of Maryland. Mr. Barse asked the Board to review Maryland law. The breweries are allowed to include products from other brewers for up to 3 days and provide samples and have consumption on the farm. Mr. Verse stated that he partnered with a promoter. The County stated the he had to get a promoter permit and coordinate with a nonprofit organization. Mr. Barse stated that his brewery lost money for a promotional event because of a conflict between County and State law. Mr. Barse submitted a copy of his promoter permit for Frederick County. Mr. Barse stated a person is permitted to buy a temporary license from Frederick County Liquor Board for per diem sale of beer, wine and liquor. Mr. Barse stated the Board Special License does apply to the Breweries State License. Mr. Barse stated he hires people who advertise his events. Mr. Pippy stated that he attended Maryland Conference with Kevin Addicts and they had a very brief a general conversation about Promoters License and he wanted to put that on the record. Mr. Pippy stated that he was looking through the email transcript between Frederick News Post Associate, Mr. Barse and the Liquor Board for clarification and the argument was based on laws from 2015 for a promoter. Mr. Pippy stated that the verbiage for promoter has changed for 2016. Mr. Pippy stated that the verbiage for a Promoter for 2015 has since been removed for 2016. Mr. Pippy asked Mr. Barse if he currently has a license from the Frederick County Liquor Board. Mr. Barse stated no license was required from the Liquor Board because the Farm has a license from the Comptroller. Mr. Stup stated that clarity can be made when Mrs. Dean returns. The Board has been requested to review the new legislation. Mr. Barse would be more than happy to volunteer to work out the details of the definition of a promoter. Frederick News-Post (FNP) stated that event is fairly new to the FNP and they are willing to work with the Liquor Board to do everything responsibly as promoters through the guidance of the Liquor Board and existing Liquor Board laws for FNP events. Mr. Stup stated that the Liquor Board is willing to come up with a check sheet of items in the future to make things run smoothly for everyone. Mr. Barse stated he will send an email to Mrs. Dean to get all detail ironed out. Mr. Stup asked if the Board or the inspectors had anything to say about this discussion.

12. Minutes- Mr. Stup stated there are no minutes today, but as an update Mr. Stup reviewed the minutes that have been typed. Mrs. Sklarew will review the corrections and submit the corrected drafts to Mrs. Thall for correction and submit them to the Board for final review.

Mr. Thall reviewed the Open Meetings Act- Mrs. Thall stated that any time 2 or more Board Members meet to discuss Liquor Board business by which she means granting a License, violations, anything involving the Board's official duties as it relates to Licensees, this needs to be done in a public meeting. Mrs. Thall stated there are some exceptions that allow the Board to have administrative function

meetings to discuss internal matters or housekeeping matters such as scheduling, but the Board should not be talking about anything relating to a license or Licensee except in a Public Meeting unless the Board has gone through statutory process to close a meeting. There must be a vote to close a meeting and the Board has to give the statutory basis for closing the meeting. Mrs. Thall stated that the Act requires the Board to keep minutes of open and closed meetings. The open meeting minutes should be made public and available at the Board's next meeting. Mrs. Hays asked what topics can be discussed by the Board without the public. Mrs. Thall stated for a closed meeting there is a list, including discussions of personnel matters and when consulting with counsel. Mrs. Thall stated if someone files a complaint. There is an Open Meeting Compliance Board and the Board can determine if a violation has been made. Mrs. Thall stated the biggest thing to remember is if it involves Licensees or creating laws or making recommendations to amend laws or change of regulations, these should take place in a public meeting.

Guidelines for conducting Administrative Hearings- Mrs. Thall indicated if the Board is having a meeting about a Licensee and granting or denying a license it should be done in a public meeting. She stated the Board as an administrative body has to make decision on the record before them. It is important when the Board is taking documents from the Licensee that the documents be made part of the record and identified. Parties have the right to be heard and cross examine other witnesses. When the Board finishes that process they have created a Public Record. Mrs. Thall stated that the Board is to base its decision based on what is in the record and not any other outside knowledge the Board Members may have.

Public Comment- Mrs. Lewis wanted to know how the Board works and how she can get assistance since she is a brand new Applicant. Inspector Shrum stated that most of the help that she would need will come from the inspectors and the Liquor Board administrator Mrs. Kathy Dean.

Email - Mrs. Thall stated that she noticed the Board Members do not have County email addresses. The Board should be aware when using their personal email that their email can be subject to public record requests. Mr. Pippy asked if that needed to come from the Circuit Court. Mrs. Thall stated no and that anyone can file at any time to see public records. Quite often, the County get requests to review email correspondence on a certain subject and there is no guarantee that those email will remain confidential.

Public Record- Mrs. Thall stated that when public record requests are made, the Board must provide an initial response within 10 business days and the records must be provided within 30 days.

Ethic Laws- Mrs. Thall stated that the Board cannot accept gifts from Licensees or Applicants. The Board members must also keep in mind not just what is in the ethic law, but also the potential for the appearance of impropriety. Mrs. Thall stated if a Board Member has an interest in a business that comes before the Board, they should generally recuse themselves from that case.

Meeting Adjourned

Respectfully submitted,

Kathy Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD